

ISSUE DATE: October 4, 2000

DOCKET NO. E-015/M-00-774

ORDER APPROVING DISCRETIONARY RATE REDUCTION EFFECTIVE MAY 1, 2000

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Gregory Scott  
Edward A. Garvey  
Joel Jacobs  
Marshall Johnson  
LeRoy Koppendrayner

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of a Petition by Minnesota  
Power for Approval of the Restated Electric  
Service Agreement between Minnesota Power  
and Lamb Weston/RDO Frozen

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**PROCEDURAL HISTORY**

In an Order issued July 1, 1995 in Docket No. E-015/M-95-365, the Commission approved a five year competitive rate contract for Minnesota Power (MP) and Lamb Weston/RDO Frozen (RDO) that expired on April 12, 2000.

On June 21, 2000, MP filed a petition requesting Commission approval of its new service agreement with RDO pursuant to the discretionary rate provision of Minn. Stat. § 216B.162, subd. 10 and 11. MP also requested a variance of Minn. Rules part 7825.3200 to apply the rate as of May 1, 2000.

On July 17, 2000, the Minnesota Department of Commerce (the Department) filed comments. The Department concluded that the proposed agreement meets the conditions of Minn. Stat. § 216B.162, is in the public interest, and should be approved. In addition, the Department recommended that the Commission grant MP's requested variance from Minn. Rules, Part 7825.3200.

The Commission met on September 21, 2000 to consider this matter.

**FINDINGS AND CONCLUSIONS**

**I. MP'S REQUESTS**

**A. New Service Agreement with RDO**

According to the new service agreement proposed by MP, RDO will receive firm service from Minnesota Power at a set rate per kilowatt-hour rather than using the standard demand and energy charges. The new rate falls between the competitive rate contained in the 1995 Joint

Petition and the rate under Minnesota Power's Large Light and Power Service Schedule. The Agreement also provides that Minnesota Power can curtail RDO's load under certain conditions with the provision that RDO can buy through the interruptions.

In essence, MP proposes to reduce (between rate cases) the existing rate at which MP provides service to RDO. MP's proposed rate reduction is a "discretionary rate reduction" as that term is defined in Minn. Stat. § 216B.162, subd. 1 (e). The Commission, therefore, analyzes MP's proposal pursuant to Minn. Stat. § 216B.162, the discretionary rate reduction statute.

## **B. Rule Variance**

MP sought a variance from the requirements of Minn. Rules, Part 7825.3200 which requires a utility filing for a change in rates to serve notice to the Commission at least 90 days prior to the proposed effective date of the modified rate. MP requested the variance so that it could implement the proposed discretionary rate on May 1, 2000, before the 90 day period required in the rule had expired.

## **II. ANALYTICAL FRAMEWORK**

### **A. Standards for Proposed Rate Reduction**

As a discretionary rate reduction, MP's proposal may be approved if it meets the several criteria set forth in Subdivisions 10 and 11 of the discretionary rate reduction statute. Subdivision 10 provides that the Commission may approve a discretionary rate reduction if finds that

- (1) the reduction is offered to customers who are located within the exclusive service territory of the public utility that offers discretionary rate reductions or to potential customers who are not customers of a Minnesota electric utility, as defined in section 216B.38, but who propose to be located within the exclusive service territory of the public utility;
- (2) the reduction applies to customers requiring electric service with a connected load of at least 2,000 kilowatts;
- (3) the reduced rate recovers at least the incremental cost of providing the service, including the cost of additional capacity that is to be added while the rate is in effect and any applicable on-peak or off-peak differential;
- (4) in the event the commission has approved unbundled rates, the reduction is not offered for any unbundled service other than generation, unless the unbundled service is available to the customer from a competitive supplier;
- (5) the reduced rate does not compete with district heating or cooling services provided by a district heating utility as defined by section 216B.166, subdivision 2, paragraph (c); and

(6) the reduced rate does not compete with a natural gas service provided by a natural gas utility and regulated by the Commission.

And Subdivision 11 prohibits the Commission from approving a proposed discretionary rate reduction unless the utility has an accepted resource plan on file with the Commission and has made the customer aware of all cost-effective opportunities for energy efficiency improvements offered by the utility. In addition, Subdivision 11 prohibits (1) the utility from recovering any revenues foregone due to the discretionary rate reductions through increased revenue requirements or through prospective rate design changes and (2) the Commission from allowing any such recovery.

In addition to the specific requirements of Subdivisions 10 and 11, the Commission must find that the proposed reduction is in the public interest.

#### **B. Criteria for Requested Variance**

Under Minn. Rules, Part 7829.3200, the Commission is required to grant a variance to its rules if it determines that the following requirements are met:

- (1) enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
- (2) granting the variance would not adversely affect the public interest; and
- (3) granting the variance would not conflict with standards imposed by law.

### **III. COMMISSION ACTION**

#### **A. Approving Proposed Rate Reduction**

The Commission has reviewed the proposed discretionary rate reduction included in the companies' agreement and finds that it meets the criteria established in Minn. Stat § 216B.162 (particularly in subdivisions 10 and 11 of that statute). In addition, the Commission finds that the Agreement is presently (i.e. under current electric industry conditions) in the public's interest. The Commission, therefore, will approve it.

## **B. Granting Requested Variance**

The Commission finds that the criteria for MP's requested variance (Minn. Rules, Part 7829.3200) are met in this case. Enforcement of the rule requiring 90 day notice would impose an excessive burden, considering that RDO's competitive rate expired in April and the parties desire to implement the discretionary rate effective May 1, 2000. Second, granting the variance in this instance would not adversely affect the public interest because this customer-specific rate does not harm Minnesota Power's ratepayers (because Minnesota Power recovers its incremental costs in providing service and will not recover the discount from other customers) and does not raise questions of discriminatory or preferential treatment. Finally, granting the variance would also not conflict with standards imposed by law or rules governing the Commission's actions.

Accordingly, the Commission will grant MP a variance from the 90 day requirement of Minn. Rules, Part 7825.3200 and allow the parties to implement the discretionary rate effective May 1, 2000.

## **ORDER**

1. The Commission hereby approves the Amended Discretionary Rate Agreement, with the express clarification that the Commission is doing so because it finds that the Agreement is presently in the public interest.
2. Minnesota Power's request for a variance from the 90 day requirement of Minn. Rules, Part 7825.3200 is granted. The discretionary rate approved in Ordering Paragraph 1 is approved effective May 1, 2000.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

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